

AO 240 (Rev. 10/03)

## UNITED STATES DISTRICT COURT

FOR THE

District of

MASSACHUSETTS

PROFIRIO GATON

Plaintiff

V.

APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF  
FEES AND AFFIDAVIT

DAVID L. WINN

Defendant

CASE NUMBER: 04-40157-DPW

I, PROFIRIO GATON declare that I am the (check appropriate box)☒ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No," go to Part 2)

If "Yes," state the place of your incarceration FMC DEVENS P.O BOX 879 AYER MA 01432

Are you employed at the institution? YES Do you receive any payment from the institution? YES

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☐ Yes ☒ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
b. Rent payments, interest or dividends	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
c. Pensions, annuities or life insurance payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
d. Disability or workers compensation payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
e. Gifts or inheritances	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
f. Any other sources	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

AO 240 Reverse (Rev. 10/03)

4. Do you have any cash or checking or savings accounts? ☐ Yes ☒ No

If "Yes," state the total amount. \_\_\_\_\_

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? ☐ Yes ☒ No

If "Yes," describe the property and state its value.

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CLERK'S OFFICE  
100 SEP - 7 P 3:23  
DISTRICT COURT  
DISTRICT OF MASS

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

8.26.04  
Date

Paolino, Gofu  
Signature of Applicant

**NOTICE TO PRISONER:** A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

## All Transactions



Inmate Reg #: 10756052  
 Inmate Name: GAYON, PORFIRIO  
 Report Date: 08/26/2004  
 Report Time: 3:47:59 PM

Current Institution: Devens FMC  
 Housing Unit: G CC  
 Living Quarters: C04-404

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 2004 SEP - 7  
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 U.S. DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

Date/Time	User Id	Transaction Type	Amount	Ref#	Payment#	Balance
8/26/2004 11:27:38 AM	DEV3002	Sales	(\$14.45)	16		\$675.90
8/23/2004 2:49:10 PM	DEV2005	Local Collections	\$50.00	20539		\$696.35
8/21/2004 2:25:30 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0821		\$640.35
8/18/2004 4:39:28 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0818		\$650.35
8/16/2004 4:47:54 PM	AMService	ITS Withdrawal	(\$13.00)	ITS0816		\$660.35
8/16/2004 2:12:02 PM	DEV2007	Local Collections	\$100.00	20253		\$673.35
8/15/2004 12:21:38 PM	AMService	ITS Withdrawal	(\$17.00)	ITS0815		\$573.35
8/12/2004 4:34:17 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0812		\$590.35
8/12/2004 1:38:24 PM	DEV2007	Local Collections	\$40.00	20035		\$595.35
8/12/2004 11:49:11 AM	DEV3002	Sales	(\$20.00)	23		\$555.35
8/11/2004 7:42:53 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0811		\$575.35
8/7/2004 11:48:25 AM	AMService	ITS Withdrawal	(\$15.00)	ITS0807		\$585.35
8/5/2004 4:52:12 PM	AMService	ITS Withdrawal	(\$12.00)	ITS0805		\$600.35
8/5/2004 11:36:34 AM	DEV3009	Sales	(\$13.00)	13		\$612.35
8/5/2004 7:07:54 AM	DEV2004	Payroll - IPP	\$25.20	4JV132		\$625.35
8/1/2004 10:58:11 AM	AMService	ITS Withdrawal	(\$10.00)	ITS0801		\$600.15
7/31/2004 10:47:00 AM	AMService	ITS Withdrawal	(\$10.00)	ITS0731		\$610.15
7/29/2004 7:51:36 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0729		\$620.15
7/29/2004 5:41:53 PM	AMService	ITS Withdrawal	(\$7.00)	ITS0729		\$630.15
7/29/2004 5:21:10 PM	DEV3008	Sales	(\$13.00)	55		\$637.15
7/27/2004 5:00:18 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0727		\$650.15
7/25/2004 7:41:08 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0725		\$660.15
7/23/2004 7:57:06 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0723		\$670.15
7/19/2004 2:21:59 PM	DEV2007	Local Collections	\$30.00	18657		\$680.15
7/18/2004 3:54:55 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0718		\$650.15
7/16/2004 5:10:08 PM	AMService	ITS Withdrawal	(\$9.00)	ITS0716		\$660.15
7/15/2004 5:27:08 PM	DEV3006	Sales	(\$6.30)	69		\$669.15
7/14/2004 2:05:16 PM	DEV2004	Local Collections	\$60.00	18390		\$675.45
7/13/2004 9:42:53 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0713		\$615.45
7/10/2004 3:35:01 PM	AMService	ITS Withdrawal	(\$15.00)	ITS0710		\$625.45
7/7/2004 4:40:33 PM	AMService	ITS Withdrawal	(\$15.00)	ITS0707		\$640.45
7/6/2004 2:27:57 PM	DEV2007	Local Collections	\$300.00	17888		\$655.45
7/6/2004 2:27:57 PM	DEV2007	Local Collections	\$40.00	17939		\$355.45
7/6/2004 8:56:57 AM	DEV2007	Payroll - IPP	\$25.00	4JV117		\$315.45
7/4/2004 1:01:35 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0704		\$290.45
7/1/2004 10:27:18 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0701		\$300.45
6/26/2004 1:58:08 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0626		\$310.45
6/24/2004 10:19:19 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0624		\$320.45
6/23/2004 8:54:04 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0623		\$330.45
6/21/2004 5:18:21 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0621		\$340.45
6/19/2004 5:31:54 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0619		\$350.45
6/19/2004 12:54:46 PM	AMService	ITS Withdrawal	(\$15.00)	ITS0619		\$360.45
6/18/2004 4:34:28 PM	AMService	ITS Withdrawal	(\$15.00)	ITS0618		\$375.45
6/17/2004 5:37:51 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0617		\$390.45
6/14/2004 5:20:14 PM	AMService	ITS Withdrawal	(\$11.00)	ITS0614		\$400.45
6/14/2004 11:51:19 AM	DEV3006	Sales	(\$19.45)	26		\$411.45
6/13/2004 10:04:30 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0613		\$430.90
6/12/2004 11:57:51 AM	AMService	ITS Withdrawal	(\$10.00)	ITS0612		\$440.90
6/9/2004 12:58:09 PM	DEV2004	Local Collections	\$40.00	16370		\$450.90
6/8/2004 5:52:30 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0608		\$410.90

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## All Transactions



Inmate Reg #:	10756053	Current Institution:	Devens FMC
Inmate Name:	GAYON, PORFIRIO	Housing Unit:	G CC
Report Date:	08/26/2004	Living Quarters:	004-416L
Report Time:	3:48:34 PM		

<u>Date/Time</u>	<u>User Id</u>	<u>Transaction Type</u>	<u>Amount</u>	<u>Ref#</u>	<u>Payment#</u>	<u>Balance</u>
6/6/2004 3:44:28 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0606		\$420.90
6/5/2004 12:56:09 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0605		\$430.90
6/1/2004 7:29:33 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0601		\$440.90
5/29/2004 5:35:08 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0529		\$450.90
5/25/2004 5:42:51 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0525		\$460.90
5/23/2004 10:56:56 AM	AMService	ITS Withdrawal	(\$10.00)	ITS0523		\$470.90
5/17/2004 5:56:42 PM	AMService	ITS Withdrawal	(\$20.00)	ITS0517		\$480.90
5/16/2004 12:43:06 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0516		\$500.90
5/12/2004 5:03:49 PM	AMService	ITS Withdrawal	(\$9.00)	ITS0512		\$510.90
5/10/2004 5:11:31 PM	DEV3006	Sales	(\$10.75)	101		\$519.90
5/9/2004 2:55:05 PM	AMService	ITS Withdrawal	(\$20.00)	ITS0509		\$530.65
5/7/2004 1:53:30 PM	DEV2007	Local Collections	\$100.00	14298		\$550.65
5/5/2004 8:02:14 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0505		\$450.65
5/2/2004 8:38:58 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0502		\$460.65
5/1/2004 11:02:13 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0501		\$470.65
4/30/2004 9:44:09 PM	AMService	ITS Withdrawal	(\$17.00)	ITS0430		\$480.65
4/29/2004 12:29:43 PM	DEV3006	Sales	(\$3.31)	45		\$497.65
4/24/2004 7:51:23 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0424		\$500.96
4/21/2004 1:23:09 PM	DEV2005	Local Collections	\$45.00	13266		\$505.96
4/18/2004 6:55:18 PM	AMService	ITS Withdrawal	(\$21.00)	ITS0418		\$460.96
4/8/2004 2:42:42 PM	DEV3006	Sales	(\$8.85)	90		\$481.96
4/6/2004 7:45:32 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0406		\$490.81
4/5/2004 2:14:16 PM	DEV2004	Local Collections	\$100.00	11982		\$495.81
4/5/2004 9:17:13 AM	DEV2004	Payroll - IPP	\$15.00	4JV068		\$395.81
3/24/2004 1:34:03 PM	DEV2004	Local Collections	\$40.00	11421		\$380.81
3/23/2004 11:20:38 AM	DEV3002	Sales	(\$50.80)	11		\$340.81
3/22/2004 2:08:09 PM	DEV2004	Local Collections	\$286.00	11142		\$391.61
3/20/2004 12:42:11 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0320		\$105.61
3/16/2004 10:08:44 PM	AMService	ITS Withdrawal	(\$8.00)	ITS0316		\$110.61
3/16/2004 11:29:26 AM	DEV3007	Sales	(\$12.00)	12		\$118.61
3/15/2004 10:32:36 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0315		\$130.61
3/13/2004 6:00:06 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0313		\$140.61
3/11/2004 8:04:44 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0311		\$150.61
3/10/2004 4:49:54 PM	AMService	ITS Withdrawal	(\$20.00)	ITS0310		\$160.61
3/9/2004 6:01:56 PM	AMService	ITS Withdrawal	(\$2.00)	ITS0309		\$180.61
3/9/2004 5:23:42 PM	DEV3007	Sales	(\$67.75)	60		\$182.61
3/8/2004 4:46:48 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0308		\$250.36
3/7/2004 9:37:26 AM	AMService	ITS Withdrawal	(\$20.00)	ITS0307		\$255.36
3/6/2004 10:28:55 AM	AMService	ITS Withdrawal	(\$10.00)	ITS0306		\$275.36
3/5/2004 7:32:10 AM	DEV2004	Payroll - IPP	\$15.12	4JV055		\$285.36
3/3/2004 7:47:44 PM	AMService	ITS Withdrawal	(\$9.00)	ITS0303		\$270.24
3/2/2004 11:52:24 AM	DEV3007	Sales	(\$51.05)	22		\$279.24
3/1/2004 7:40:56 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0301		\$330.29
2/29/2004 7:55:27 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0229		\$340.29
2/28/2004 12:09:46 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0228		\$345.29
2/26/2004 7:10:08 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0226		\$355.29
2/21/2004 5:30:26 PM	AMService	ITS Withdrawal	(\$10.00)	ITS0221		\$365.29
2/20/2004 1:58:55 PM	DEV2006	Local Collections	\$25.00	9345		\$375.29
2/18/2004 7:51:36 PM	AMService	ITS Withdrawal	(\$5.00)	ITS0218		\$350.29
2/18/2004 12:24:38 PM	DEV3007	Sales	(\$35.10)	45		\$355.29

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**Other Orders/Judgments**4:04-cv-40157-DPW Gaton v. Winn**United States District Court****District of Massachusetts****Notice of Electronic Filing**

The following transaction was received from Weissman, Linn entered on 8/23/2004 at 12:57 PM EDT and filed on 8/23/2004

**Case Name:** Gaton v. Winn

**Case Number:** 4:04-cv-40157

**Filer:**

**Document Number:** 3

**Docket Text:**

Judge Douglas P. Woodlock : SERVICE ORDER entered re: 2241 Petition. Answer/responsive pleading due w/in 28 days of rcpt of this order.(Weissman, Linn)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**yes

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1029851931 [Date=8/23/2004] [FileNumber=642627-0]  
[49ba82f8e8be3ff63bd113b4f5b33c783f4336b30e0020b56b1dea159084d6af65be  
feac9ad650118b9c6f6123532fe05ac0700d7a07e25b3004c30c3bba00b4]]

**4:04-cv-40157 Notice will be electronically mailed to:**

**4:04-cv-40157 Notice will not be electronically mailed to:**

Porfirio Gaton  
10756-052  
Federal Medical Center  
PO Box 879  
Ayer, MA 01432

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PORFIRIO GATON,  
Petitioner,

v.

C.A. No. 04-40157-DPW

DAVID L. WINN,  
Respondent.

PROCEDURAL ORDER

On August 18, 2004, petitioner Porforio Gatón filed a petition for a writ of habeas corpus, but did not submit the \$5 filing fee or an application for waiver of the filing fee. A memorandum attached to Gatón's papers states that payment of the \$5 filing fee may be paid with postage stamps, and the envelope mailed to the Court containing Gatón's papers appears to have over \$5 worth of stamps on it.

ANALYSIS

A party filing a Section 2241 habeas corpus petition must either (1) pay the \$5 filing fee for habeas corpus actions or, if a party lacks the funds to pay the filing fee, he or she may (2) file an application to proceed without prepayment of fees. See 28 U.S.C. § 1914(a) (filing fees); § 1915 (proceedings in forma pauperis). An application for waiver of the filing fee must be accompanied by a document certifying the amount of funds on deposit to the petitioner's credit at his institution of incarceration. See Rule 1(b) of the Rules Governing Section 2254 Cases (these rules may be applied to other habeas petitions at the court's discretion); Rule 3(a) (if a petitioner desires to prosecute petition in forma pauperis, he shall file the affidavit required by § 1915 and a certified statement of amount of funds in prisoner's institutional account); 28 U.S.C. § 1915(a)(2). For the convenience of litigants, this Court provides a standardized form for fee waiver

applications. Gaton is advised that payment of the filing fee must be in United States currency, and that United States postage stamps do not constitute United States currency. See generally 31 U.S.C. § 5103 (defining legal tender as United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks)); see also Mahler v. Frank, No. 04-C-31-C, 2004 WL 231216, at \*1 (W.D. Wis. Feb. 2, 2004) (denying prisoner's request to make initial partial filing fee payment with stamps).

Because Gaton has not submitted the \$5 filing fee or an application to waive the fee, he shall be granted additional time to do so.

CONCLUSION

ACCORDINGLY, if Gaton wishes to proceed with this action, he shall, within 42 days of the date of this order, submit the \$5 filing fee or, if he lacks the funds to pay the \$5 filing fee, an application to waive prepayment of the filing fee with a certified account statement for the 6-month period immediately preceding the filing of this petition. Failure to take either action will result in the dismissal without prejudice of the petition for failure to pay the filing fee.

The Clerk is directed to send Gaton an application to proceed without prepayment of fees and affidavit with this order.

SO ORDERED.

Dated at Boston, Massachusetts, this 23rd day of August 2004.

s/ Douglas P. Woodlock  
DOUGLAS P. WOODLOCK  
UNITED STATES DISTRICT JUDGE